SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT IN ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 7H .2701 PURPOSE

A general permit pursuant to this Section shall allow for the construction of riprap sills for wetland enhancement in estuarine and public trust waters as set out in Subchapter 7J .1100 and according to the rules in this Section.

History Note: Authority G.S. 113A-107; 113A-118.1;

Temporary Eff. June 15, 2004;

Eff. April 1, 2005.

15A NCAC 07H .2702 APPROVAL PROCEDURES

- (a) An applicant for a General Permit under this Subchapter shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and applicant name and address.
- (b) The applicant shall provide:
 - (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
 - (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. The notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice, and, indicate that no response will be interpreted as no objection.
- (c) DCM staff shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit.
- (d) No work shall begin until an on-site meeting is held with the applicant and a Division of Coastal Management representative to review the proposed development. Written authorization to proceed with the proposed development shall be issued if the Division representative finds that the application meets all the requirements of this Subchapter. Construction shall be completed within 120 days of the issuance of the general authorization or the authorization shall expire and it shall be necessary to re-examine the proposed development to determine if the general authorization may be reissued.

History Note: Authority G.S. 113A-107; 113A-118.1;

Temporary Adoption Eff. June 15, 2004;

Eff. April 1, 2005;

Amended Eff. October 1, 2007.

15A NCAC 7H .2703 PERMIT FEE

The applicant shall pay a permit fee of two hundred dollars (\$200.00). This fee shall be paid by check or money order made payable to the Department.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119.1;

Temporary Eff. June 15, 2004;

Eff. April 1, 2005

Amended Eff. September 1, 2006

15A NCAC 7H .2704 GENERAL CONDITIONS

- (a) Structures authorized by a permit issued pursuant to this Section shall be riprap or stone sills conforming to the standards in these Rules.
- (b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources (DENR) to make periodic inspections at any time deemed necessary in order to insure that the activity being performed under authority of this general permit is in accordance with the terms and conditions prescribed in these Rules.
- (c) The placement of riprap or stone sills authorized in these Rules shall not interfere with the established or traditional rights of navigation of the waters by the public.
- (d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.
- (e) This permit does not eliminate the need to obtain any other required state, local, or federal authorization.
- (f) Development carried out under this permit shall be consistent with all local requirements, AEC Guidelines as set out in Subchapter 7H. 0200, and local land use plans current at the time of authorization.

History Note: Authority G.S. 113A-107; 113A-118.1;

15A NCAC 7H .2705 SPECIFIC CONDITIONS

- (a) A general permit issued pursuant to this Section shall be applicable only for the construction of riprap or stone sill structures built in conjunction with existing, created or restored wetlands.
- (b) This general permit shall not apply within the Ocean Hazard System Areas of Environmental Concern (AEC) or waters adjacent to these AECs with the exception of those portions of shoreline within the Inlet Hazard Area AEC that feature characteristics of Estuarine Shorelines. Such features include the presence of wetland vegetation, lower wave energy, and lower erosion rates than in the adjoining Ocean Erodible Area.
- (c) On shorelines where no fill is proposed, the landward edge of the sill shall be positioned no more than 5 feet waterward of the waterward depth contour of locally growing wetlands or to mid-tide depth contour, whichever is greater. Where no wetlands exist, in no case shall the landward edge on of the sill be positioned greater than 30 feet waterward of the mean high water or normal high water line.
- (d) On shorelines where fill is proposed, the landward edge of the sill shall be positioned no more than 30 feet waterward of the existing mean high water or normal high water line.
- (e) The permittee shall maintain the authorized sill and existing or planted wetlands in conformance with the terms and conditions of this permit, or the remaining sill structures shall be removed within 90 days of notification from the Division of Co astal Management.
- (f) The height of sills shall not exceed six inches above mean high water, normal water level, or the height of the adjacent wetland substrate, whichever is greater.
- (g) Sill construction authorized by this permit shall be limited to a maximum length of 500 feet.
- (h) Sills shall be porous to allow water circulation through the structure.
- (i) The sills shall have at least one five-foot drop-down or opening every 100 feet and may be staggered or overlapped or left open as long as the five-foot drop-down or separation between sections is maintained. Overlapping sections shall not overlap more than 10 feet. Deviation from these drop-down requirements shall be allowable following coordination with the N.C. Division of Marine Fisheries and the National Marine Fisheries Service.
- (j) The riprap structure shall not exceed a slope of a one foot rise over a two foot horizontal distance and a minimum slope of a one and a half foot rise over a one foot horizontal distance. The width of the structure on the bottom shall be no wider than 15 feet.
- (k) For the purpose of protection of public trust rights, fill waterward of the existing mean high water line shall not be placed higher than the mean high water elevation.
- (l) The permittee shall not claim title to any lands raised above the mean high or normal water levels as a result of filling or accretion.
- (m) For water bodies more narrow than 150 feet, the structures shall not be positioned offshore more than one sixth (1/6) the width of the waterbody.
- (n) The sill shall not be within a navigation channel marked or maintained by a state or federal agency.
- (o) The sill shall not interfere with leases or franchises for shellfish culture.
- (p) All structures shall have a minimum setback distance of 15 feet between any parts of the structure and the adjacent property owner's riparian access corridor, unless either a signed waiver statement is obtained from the adjacent property owner or the portion of the structure within 15 feet of the adjacent riparian access corridor is located no more than 25 feet from the mean high or normal water level. The riparian access corridor line is determined by drawing a line parallel to the channel, then drawing a line perpendicular to the channel line that intersects with the shore at the point where the upland property line meets the water's edge.
- (q) The sill shall not interfere with the exercise of riparian rights by adjacent property owners, including access to navigation channels from piers, or other means of access.
- (r) Sills shall be marked at 50-foot intervals with yellow reflectors extending at least three feet above mean high water level.
- (s) If the crossing of wetlands with mechanized construction equipment is necessary, temporary construction mats shall be utilized for the areas to be crossed. The temporary mats shall be removed immediately upon completion of the construction of the riprap structure.
- (t) Sedimentation and erosion control measures shall be implemented to ensure that eroded materials do not enter adjacent wetlands or waters.
- (u) No excavation or filling of any native submerged aquatic vegetation is authorized by this general permit.
- (v) No excavation of the shallow water bottom or any wetland is authorized by this general permit.
- (w) No more than 100 square feet of wetlands may be filled as a resulted of the authorized activity.
- (x) Backfilling of sill structures may only be utilized only for the purpose of creating a suitable substrate for the establishment or reestablishment of wetlands. Only clean sand fill material may be utilized.
- (y) The riprap material shall consist of clean rock or masonry materials such as granite or broken concrete. Riprap material shall be free of loose sediment or any pollutant. The structures shall be of sufficient size and slope to prevent its movement from the site by wave or current action.

- (z) If one or more contiguous acre of property is to be graded, excavated or filled, an erosion and sedimentation control plan shall be filed with the Division of Land Resources, Land Quality Section, or appropriate government having jurisdiction. The plan must be approved prior to commencing the land-disturbing activity.
- (aa) In order to ensure that no adverse impacts occur to important fisheries resources, the Division of Marine Fisheries shall review and concur with the location and design of the proposed project prior to the issuance of this general permit.
- (bb) Prior to the issuance of this general permit, Division staff shall coordinate with the Department of Administration's State Property Office to determine whether or not an easement will shall be required for the proposed activity.
- (cc) Following issuance of this general permit, the permittee shall contact the N.C. Division of Water Quality and the U.S. Army Corps of Engineers to determine any additional permit requirements. Any such required permits, or a certification from the appropriate agency(s) that no additional permits are required, shall be obtained and copies provided to the Division of Coastal Management prior to the initiation of any development activities authorized by this permit.

History Note: Authority G.S. 113A-107; 113A-118.1;

Temporary Eff. June 15, 2004;

Eff. April 1, 2005.